IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2314 OF 2006

The State of Maharashtra ..Applicant

Vs.

Shankar Govind Pawar ..Respondent

Mr. A.S. Shitole, APP for applicant - State.
Mr. A.S. Khandeparkar i/by Mr. Anil Kumar Joshi for respondent.

CORAM: B.H. MARLAPALLE, J.

Date : October 24, 2007.

P.C.:

1. Heard Mr. Shitole the learned APP. This is an application seeking leave to appeal under Section 378 (3) of Cr.P.C. against the order of acquittal dated 20/2/2006 passed by the learned Special Judge under the Prevention of Corruption Act, 1988 in Special Case No. 4 of 2000.

2. As per the prosecution the accused was working as Round Forest Officer (Vanpal) at Shenoli Station, Taluka Karad, District Satara and PW 1 - Salim Ahmed

Shikalgar was running a Saw Mill in his own land at Shenoli Station under the name and style as "Shikalgar Saw Mill". The license of the Saw Mill since 1970-71 stood in the name of Yasin Farid Shikalgar and this license was issued by a District Forest Officer. It was claimed that to renew the license, the accused had demanded the illegal gratification.

3. The prosecution examined PW 1 - Salim Ahmed Shikalgar, PW 2- Shankar Tukaram Musale (panch witness), PW 3 - Anil Saxena, the Sanctioning Authority and PW 4 - Manohar Mane, Dy. S.P. in the office of Anti-Corruption Bureau at Satara. As per the PW 1 the accused had visited his Mill on 16/2/1999 for some enquiry and he was alleged to have demanded an amount of Rs.800/- for sending a favourable report. As per the complainant he had paid Rs.300/- on demand and the remaining amount of Rs.500/- was to be paid on 19/2/1999. He, therefore, approached the ACB and filed his complaint at Exh.15. Trap was arranged on 19/2/1999 on which date the remaining amount of Rs.500/- was to be paid to the accused. It was noted by the trial court that the license of the

complainant's Mill was renewed on 10/1/1999 and, therefore, on 16/2/1999 there was no occasion to demand bribe for sending a favourable report as the license was already renewed. Thus, the reason for demand could not be accepted and, therefore, the alleged demand made by the accused to the complainant was suspicious. Similarly, PW 2 Shankar Musale was not present when the amount of Rs.500/- was passed on to the accused by PW 1. Consequently, there was no corroboration to the testimony of PW 1 - Salim Shikalgar. The court also noted that a fine amount of Rs.800/- was to be recovered from the complainant and the accused had the authority to recover the said amount. In the first instalment Rs.300/- was paid towards the fine amount and Rs.500/- was the balance amount. PW 1 admitted in his cross-examination (paragraph 8) that accused had told him that he would give a receipt of Rs.500/- and that he might have given such a receipt but he did not bring it to the court.

4. The reasoning thus set out by the trial court in support of the order of acquittal cannot be said to

be warranting reconsiderations at the hands of this court and both, the demand as well as the trap could not be proved by the prosecution. There are no occasions to rely on the provisions of Section 20 of the Prevention of Corruption Act, 1988 to draw presumption by the trial court.

5. Hence, leave to appeal is refused and the application is rejected.

(B.H. Marlapalle,J.)